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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/328,025	06/08/1999	JOHANNES M. M. VERBAKEL	PHN-16.967	6210
24737	7590	08/25/2004	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510			CHAWAN, VIJAY B	
			ART UNIT	PAPER NUMBER
			2654	11

DATE MAILED: 08/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/328,025

Applicant(s)

VERBAKEL ET AL.

Examiner

Vijay B. Chawan

Art Unit

2654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-9, 12, 13 and 15-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 12-13, 15-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. The term "amount of" in claims 1-9, 12-13, 15-22, is a relative term which renders the claim indefinite. The term "amount of" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

***Claim Objections***

3. Claims 17-20 are objected to because of the following informalities: the phrase "... indicative for a change in..." is not clear. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-9, 12-13, 15-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Tatsumi et al., (6,353,703).

As per claim 1, Tatsumi et al., teaches a method for transferring real time information, in particular audio information, the method comprising the steps of:

encoding consecutive segments of the real time information to compressed real time data in frames (Col.10, lines 53 - 64);

transmitting a signal carrying the compressed real time data (Col.23, lines 18-28);

receiving the signal and retrieving the compressed real time data (Col.23, lines 29-42);

storing the received compressed real time data in a playback buffer(Col.87, line 32-52); and,

decoding the compressed real time data from the playback buffer (Col.87, line 32-52, Col.87, line 62 - Col.88, line 67); characterized in that the method comprises the steps of:

determining, before transmitting, a buffer occupancy for at least one frame, which buffer occupancy is indicative of an amount of compressed real time data to be present in the playback buffer at the start of decoding said frame (Col.87, line 32-52, Col.87, line 62 - Col.88, line 67);

transferring the buffer occupancy via the signal (Col.87, line 32-52, Col.87, line 62 - Col.88, line 67);

controlling the retrieving and/or the decoding in dependence of said transferred buffer occupancy (Col.87, line 32-52, Col.87, line 62 - Col.88, line 67).

As per claim 2, Tatsumi et al., teaches signal carrying real time information, which real time information is encoded to compressed real time data in frames relating to consecutive segments of the real time information, characterized in that, the signal comprises a buffer occupancy for at least one frame, which buffer occupancy is indicative of an amount of compressed real time data to be present in a playback buffer at the start of decoding said frame (Col.87, line 32-52, Col.87, line 62 - Col.88, line 67).

As per claim 3, Tatsumi et al., teaches a method for recording audio information on a record carrier, the method comprising the steps of :

encoding consecutive segments of the audio information to compressed audio data in frames (Col.10, lines 53 - 64); and,

recording the compressed audio data characterized in that the method comprises the steps of: determining a buffer occupancy for at least one time frame,

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which buffer occupancy is indicative of an amount of compressed audio data to be present in a buffer at the start of decoding said frame (Col.87, line 32-52, Col.87, line 62 - Col.88, line 67); and,

recording the buffer occupancy on the record carrier (Col.87, line 32-52, Col.87, line 62 - Col.88, line 67).

As per claim 4, Tatsumi et al., teaches the method of claim 3, characterized in that the buffer occupancy is indicative of the amount of compressed audio data to be present in the playback buffer at the start of decoding said frame before the compressed audio data relating to said frame is removed from said buffer (Col.87, line 32-52, Col.87, line 62 - Col.88, line 67).

As per claim 5, Tatsumi et al., teaches the method of recording audio data as claimed in claim 3, characterized in that, determining the buffer occupancy comprises the step of determining the amount of compressed audio data in a recording buffer before or after encoding said frame (Col.87, line 32-52, Col.87, line 62 - Col.88, line 67).

Claims 6-9, 12-13, 15-22 are apparatus claims to implement the method of claims 1-5 above, and are similar in scope and content and are rejected under similar rationale.

***Response to Arguments***

6. Applicant's arguments filed 6/14/04 have been fully considered but they are not persuasive. Applicant argues that Tatsumi does not address of the receipt of the encoded information, and does not address the determination of a buffer occupancy at a receiver that necessary to avoid underflow or overflow. Examiner disagrees. Tatsumi does teach the receipt of the encoded information, and does not address the determination of a buffer occupancy at a receiver (see figures 8 and 55).

7. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is

filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vijay B. Chawan whose telephone number is (703) 305-3836. The examiner can normally be reached on Monday Through Thursday 7-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil can be reached on (703) 305-9645. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Vijay B. Chawan  
Primary Examiner  
Art Unit 2654

Vbc  
8/20/04

**VIJAY CHAWAN**  
**PRIMARY EXAMINER**